

Q&A Session for ICF Transitions Guidance Web Seminar

Friday, December 19, 2014

CON

Will we need to apply current standards for new development - i.e. community notification for the programs converting?

Site selection notification is not required for a conversion, but providers do need to follow the CON process.

Cultural Competence

What kind of documentation would you want to see to show that we have offered culturally competent assistance during the conversion process?

It depends on the needs of each person. Providers should do individualized planning to understand what they need to do to ensure cultural competence for each person. The conversion proposal should document things like translation or interpretation when it is needed. These can be noted in Section F of the template that addresses Person-Centered Planning. The Individualized Service Plans (ISPs) themselves will need to be translated into the appropriate languages and written in plain language.

Due Process Questions

Are due process procedures required for all people involved in a conversion?

No. Due process is required when an individual is being asked to relocate and the ICF they leave will remain in operation. When an ICF is converting to an IRA with no change in capacity and all individuals are choosing to remain at that location, that ICF program is ending and is no longer a choice for any individuals. The ICF provider must notify the individual and his/her advocates of the change in the program, but does not offer due process.

What happens when families/consumer refuse to transition to an IRA?

Individuals may request to relocate to another ICF, but should recognize that there are plans for most ICFs (with the exception of Children's Residential Projects) to transition by October 2018. Through its ICF Transition Plan, which has been approved by the federal Centers for Medicare & Medicaid Services (CMS), OPWDD is transforming its residential services to ensure that each person is able to receive supports and services in the most individualized way and integrated setting possible. Providers will be working with individuals and their advocates to help them understand that as ICFs transition to community-based waiver services, each individual will undergo person-centered planning and develop an Individualized Service Plan (ISP) that will ensure that his/her needs for support are met in the IRA or other community setting. OPWDD will assist providers with these communications. In addition, the New York Association of Independent Living (NYAIL) through a contract with the Department of Health, is establishing nine regional Transition Centers which will provide peer support to individuals and families who have concerns about the transition process.

Fiscal Questions

Will the fiscal policy or large ICF conversions also apply to agencies who want to downsize an ICF of less than 14 people? If so, will there be a capital component for purchasing and renovation of a smaller home?

The anticipated fiscal policy will apply to all ICF downsizing and conversion proposals. At present, it is too early to know what kind of capital funds will be available for these purposes. Providers are encouraged to look at alternative arrangements such as a leased property which provides more fiscal flexibility. Once an ICF converts to an IRA, the individuals living there can receive new benefits that offset "room and board" costs, such as Supplemental Security Income (SSI) and food stamps. In addition, proceeds from the sale of the larger property should be applied to the capital funding needed to support the downsizing activity to further defray these costs. Each downsizing/conversion proposal will have to examine and account for the project in light of these new benefits and the entire fiscal picture for the project.

OPWDD and ICF provider agency representatives are working together to establish a fiscal policy for supporting the needs of the individuals in conversion and downsizing proposals that require additional capital costs.

Will there be money to assist with downsizing a larger ICF, i.e., a 12-person home, to two smaller homes?

Yes. OPWDD is working to modify the current ICF conversion fiscal policy to allow providers who are looking to first downsize and then convert ICFs that are 14-person or smaller. To the extent the existing funding policy works for a given provider (i.e., the rationalized ICF rate less the tax assessment and day services), providers may complete the required proposal template, make sure that the programs will be HCBS settings compliant and submit that information to OPWDD for review and approval. Whether this funding policy will support the proposed conversion project is for the provider to decide. Providers should review the ICF Conversion Fiscal Policy and ICF Conversion/Transition Proposal Template on OPWDD's website (http://www.opwdd.ny.gov/transformation-agreement/mfp/ICF_Transitions) and ensure that the amount of funding will be sufficient to support the individuals and fully meet the HCBS settings expectations.

OPWDD's joint Funding Solutions/Large ICF subgroup is also developing recommendations for how to support the needed levels of staffing as ICFs that serve individuals with behavioral and other intense needs downsize and convert to IRAs. OPWDD recognizes that as some ICFs begin to downsize, the existing average rate may not be sufficient to support everyone who remains in the smaller settings. The fiscal policy must be sufficient to address the needs of the individuals and also to ensure the provider can comply with HCBS settings standards.

Does OPWDD plan to help increase Direct Support Professionals (DSPs) salaries to help get this done?

Compensation increases are being supported in the current year budget and are prescribed for the 2015-16 budget, which began on April 1, 2015. In FY2014-2015 and FY2015-2016, DSPs are entitled to a 2% compensation increase. This is a *compensation* increase so it's on salaries and fringe benefits. At this time those are the only funds that are available to provide salary increases or to cover the increases that have been awarded by provider agencies. As a point of reference, current law also provides for a new three-year cost-of-living adjustment, beginning April 1, 2016.

To truly support people with significant behavior issues or clinical needs with choice and within their communities requires a high staffing ratio. This is NOT supported by the newly established rate rationalization methodologies. How will OPWDD address this?

The intent of the existing fiscal policy for conversions of ICFs is to give providers the equivalent of their ICF operating rate. By definition, OPWDD will be providing the agency with the proper funding to ensure that needed clinical supports are provided to the individual once the ICF converts to the IRA, and that the supports that were funded through the ICF are available in the now-converted program in the IRA. However, it is important for providers to understand that, once OPWDD establishes an acuity-based reimbursement system, these alternative fiscal policies for conversions of ICFs will be replaced with that acuity-based funding level. OPWDD believes that, once validated, the CAS will ensure the appropriate funding is available to support the needs of people.

Will the State be reviewing their cost "neutral-ness" to accommodate the high level of hospital stays that current ICF individuals need which would not be accommodated under HCBS billing in the IRA setting? Fourteen POSSIBLE days for hospital stays is not sufficient for those individuals living in an ICF that converts to an IRA.

CMS is requiring that, beyond the 14 day allowance, we do not bill two separate Medicaid services on the same day, i.e., billing for Residential Habilitation in the IRA while the individual is in the hospital. Nonetheless, OPWDD will continue to press federal and state policy makers for a solution to the problem of needed hospital days.

In creating the budget for the converted program, should providers be using the ICF rate we are currently getting or the rate that they will have in 4 years after the full transition into rate rationalization?

Under the fiscal policy released in September 2014, providers will get either the higher of their 7/1/14 IRA price, or funding equivalent to their 7/1/14 ICF rate net of provider tax assessment and day services. More simply, the current policy predicates funding upon the year one transition rate, which took effect on 7/1/14.

If an agency already has an established IRA rate, will the rate for the converted ICF-IRA be whichever rate is higher?

Yes, that is correct. The ICF rate is an all-inclusive rate. The IRA Residential Habilitation (Res Hab) rate covers the cost of residential habilitation service, with property costs funded through other payors. If your IRA Res Hab rate is greater than your ICF rate, you would get your IRA Res Hab rate in that conversation situation.

Front Door

Will everyone who is going through the conversion process need to go through The Front Door? What is the expedited front door process?

Every individual who transitions into community services, whether they remain in the same location or move to a new location, will go through an expedited Front Door process. They have already had their needs assessed, and their eligibility has been determined. Once an ICF provider informs the DDRO via the Front Door that an individual is being discharged or transitioned to waiver services, the Front Door staff will begin the process of waiver enrollment and working with that individual, providing them a list of the MSC agencies to use in selecting an MSC and beginning the discussion of needed waiver services.

Do people involved in the ICF conversions require full scale IQ/ Comprehensive Psychological Evaluation within one year or will an update suffice for older evaluations?

The most recent psychological assessment and the most recent social history assessment are sufficient for this purpose.

Some residences where teenagers live have been converted to permanent ICF residences. What opportunity, if any, is available to these individuals who want to move to a new setting?

The ICF provider can propose to convert these ICFs if they are smaller than 14-person or, regardless of ICF size, to downsize first and convert. These individuals should be offered the opportunity to receive HCBS waiver services instead of ICF services – either in their current location if the provider can convert the current operation in place or in another waiver setting of their choice.

HCBS Settings

How will providers ensure HCBS settings rule compliance in the larger settings without significantly more staff added?

Providers are responsible for ensuring HCBS settings compliance in their waiver settings. Changes in the way homes are operated may be required to meet the intent of HCBS settings regulations. Person-centered planning and individual choice are key as well as ensuring that each person has full access to the greater community to the same degree as people without disabilities. Assisting individuals to be linked to community resources and natural supports is another way, in addition to staffing, that can help people have access to the broader community and explore their interests.

The federal Centers for Medicare & Medicaid Services (CMS) has indicated, “While size may impact the ability or likelihood of a setting to meet HCB settings requirements, the regulation does not specify size. Even a very small residential setting may have policies that restrict individual access to things such as food and telephone use that would not be consistent with HCB requirements, while facilities that serve a larger number of individuals may have structured their system in a manner that comports with the qualities required”.

Will the HCBS settings rules be applied to homes that currently exist as IRAs?

Yes. All HCBS settings in which HCBS waiver services are delivered must meet HCBS settings requirements according to the timeline in OPWDD’s HCBS Settings Transition Plan (see link: http://www.opwdd.ny.gov/opwdd_services_supports/HCBS/announcement-for-public-content).

With food in rooms, will there be issues if a person stores food in an unsafe manner which causes health and sanitary issues?

The HCBS settings rule support choice, but providers do have to ensure the health and safety of the individuals is supported and maintained. Providers will need to inform individuals about safe food storage, and educate individuals them about the expectations about food storage in bedrooms.

Must kitchens be open 24 hours a day?

The kitchen does not have to be open for 24 hours, but the individuals should be able to access food when they wish. There is an expectation that the individuals will be afforded all the rights entitled to them as long as they are maintaining their health and safety.

I have an 8-person ICF where everyone shares a bedroom. Through our PCP interviews, we have learned that 3 individuals would like their own room. How do I address this?

This kind of desire needs to be identified through the Person-Centered Planning practices, and providers should seek options to meet the stated desire through the overall resources that will be available as part of the ICF conversion process. For example, the provider might look at options for downsizing the ICF and using the site for fewer people. Or, the provider could look at the existing environment to see if there is any way to accommodate a different space layout to allow for single bedrooms.

Medicaid Service Coordination

Can the individual select their ICF provider to be their MSC provider?

MSCs are chosen by the person or the people involved in the person's life. The first step in choosing an MSC is to know that that the individual has a choice. In selecting an MSC provider, many people look at the history of MSC agencies to find one that may have a particular understanding of certain types of support models or the needs of certain groups of people. The person may choose the same agency as the ICF provider. If that occurs, however, the expectation is that firewalls will be in place to ensure no conflict of interest on the part of the MSC. This means there is a separate line of supervision for those who are conducting service coordination and those who are in a service delivery role.

Who is responsible for writing the Preliminary Individualized Service Plan (PISP) for people involved in the conversion?

The MSC or the ICF provider sends the service planning packet to the regional office Front Door staff along with an attestation that the family and advocate were all involved in the decision for the individual to transition to community support. The Front Door staff will review the service recommendations and ensure that they reflect personal choice and community integration, and they will develop the PISP, which would then be sent back to the MSC.

What if protective oversight needs are inconsistent with the individual choice?

There isn't one answer to this question. It is very individual to the person, specifically to the capabilities of the person and his/her ability to understand the potential risks involved in the decisions they might be making. Staff are encouraged to use the resources that are available on OPWDD's website

(http://www.opwdd.ny.gov/opwdd_services_supports/person_centered_planning) that relate to the development of safeguards and planning approaches for helping individuals to look at and understand risks that may be involved in their decisions. These may be especially helpful when individuals are making choices that may be different than what the clinical team is suggesting. The resources offer suggestions for how to document those conversations and decisions in a way that helps people come to a conclusion that's reasonable in the development of a plan.

Person-Centered Planning

Does OPWDD complete the person-centered planning review form?

Yes. OPWDD will complete this form. Once providers submit their proposal, the reviewers will look at those proposals and complete the checklist. Proposals must pass the checklist before they can be fully approved for conversion.

Must kitchens be open 24 hours a day?

The kitchen does not have to be open for 24 hours, but the individuals should be able to access food when he or she asks to do so. If the individual has the capability to use the kitchen safely, he or she should be allowed access to the kitchen whenever he/she wants access. It is expected that the individuals will be afforded all the rights entitled to them as long as they are maintaining their health and safety. HCBS is about exploring options that meet the individual's needs.

How will agencies be able to support person-centered planning as described today, when considering aspects such as staffing needs, transportation and communications?

Through strong person-centered planning providers must look at each individual's circumstances, identify the things that are of greatest importance to that person, and make a judgment about what is needed to achieve the kinds of supports the person needs and wants to achieve his or her goals. Then the provider should identify the resources that are available through the conversion/downsizing proposal and determine how best to deliver those supports to meet the person's needs. The providers must ensure that the planning process is undertaken, that each person's interests and needs are supported as much as possible, and that there is a plan-full approach to helping each person have the greatest community integration and participation possible in the way that's most meaningful to them.

Will Personal Outcome Measures (POMs) meet requirements for PCP?

OPWDD has several different approaches to how PCP can be undertaken. One of those ways is the use of a personal outcome measures (POMs) interview which seeks to identify if the person is achieving the outcomes that are most important to him/her and if they're not, that a plan of support is developed that would help them achieve the outcomes they've identified as most important. The use of a POMs interview process is one way that PCP can be undertaken. Some agencies use other ways of planning for PCP outcomes, and those may be fine as well. POMs are an appropriate way to conduct PCP activities.

Are seniors allowed to "retire" from their day program?

Yes. This is a great opportunity to be able to develop a person-centered plan that aligns with any individual in an ICF who may be looking for a change in their support model. A lot of seniors would prefer to have a different, more relaxed lifestyle. If that is what is desired by individuals, the conversion proposal should describe how day time supports that are different from a day program model will allow people that kind of flexibility in their life.

Are additional resources going to be made available to ICF providers to facilitate the person centered process?

OPWDD does not anticipate providing additional funding for person-centered planning. Per federal regulation and OPWDD expectation, each individual in an ICF setting should already be participating in ongoing planning for discharge to an alternate placement. In addition, ICF providers are advised to assist individuals and their advocates to connect to OPWDD's Front Door so that they can select an MSC provider and engage that MSC provider in planning for waiver services before the individual's transition to a community setting. MSC providers receive an enhanced rate the first month of billing to allow for the needed pre-discharge planning.

Will people who live in the large ICFs [greater than 14] and require 24-hour nursing care be moved to smaller homes with the same level of care?

If a person, as a result of their current diagnoses and planning processes, needs to have nursing supports, the planning for that person's transition to a community setting will need to include nursing supports. Supports that are necessary for a person's health and safety must be included in the planning process.

Can someone who lives in an ICF and is in day habilitation receive therapy under Article 16 Clinic once the ICF converts to an IRA?

Yes, a person residing in a converted IRA may receive therapy services from an Article 16 clinic.

Can an individual receive “packaged” community day services and comprehensive medical services such as those offered through a PACE program?

PACE is a managed long-term care plan for Medicaid. A person cannot be enrolled in the OPWDD Waiver and be enrolled in PACE. If providers serve individuals who are in need of very specific types of services that are not available through the waiver, they should contact the regional office staff to discuss the need and review the whole service package to make sure the person’s needs are being met and there are no duplication of Medicaid services.

Willowbrook

Are there any additional processes for Willowbrook Class members?

The requirements of the Willowbrook Permanent Injunction remain in effect and will be followed, but there are no other additional processes required for Willowbrook class members.

Is OPWDD going to provide a template notification letter to families and Willowbrook class member advocates about ICF conversions?

OPWDD provided an example notification letter with guidance on ICF conversion. That letter gives notice of the conversion of the ICF to an IRA. Its purpose is to let people know that the character of the house, the nature of the certification of the house, is going to be changed from an ICF to an IRA and to explain the steps involved in that. It is not a due process letter. There is no due process with a conversion itself because it is a change in the nature of the facility from ICF to IRA. If, however, as part of the conversion process for a particular home there was a proposal that one or more individuals could be relocated to a different facility, then a due process letter would be provided with all of the due process rights made available to the individual. So, if the plan is for the individuals to remain in the home after it is converted to an IRA, the letter to be used is a notification letter without the due process procedure. Of course, following the conversion and the individual’s enrollment in the Waiver, the individual’s right to object to his or her service plan, or any proposed change, continues pursuant to OPWDD regulations at 14 NYCRR 633.12.

Do Willowbrook class members go through the OPWDD Front Door?

Every individual, including Willowbrook class members, who transitions into community services, whether they remain in the same location or move to a new location, will go through an expedited Front Door process. They have already had their needs assessed, and their eligibility has been determined. Once an ICF provider informs the DDRO via the Front Door that an individual is being discharged or transitioned to waiver services, the Front Door staff will begin the process of working with that individual to enroll in the wavier and provide a list of the MSC agencies to use in selecting an MSC and to begin the discussion of needed waiver services.

Miscellaneous

Will the State be providing training for families whose loved ones will be affected by the movement from their home setting?

The DDROs and providers will be providing information for individuals and family members and explaining the changes that are happening in our residential services. OPWDD will be setting up forums at the regional level to speak with individuals, families and advocates.

Could the State take over operations of the large ICFs that are currently operated by voluntaries?

OPWDD has no plans to take over operations of large ICFs.

Is there a deadline when the small ICFs have to be converted?

There is no deadline for ICF conversion according to the size of the ICF. The ICF Transitions Plan posted on the OPWDD website describes annual targets for reducing the use of ICFs in the OPWDD service system over the next few years. By October 1, 2018, OPWDD expects to have reduced ICF use to ICFs that are Children’s Residential Projects and 150 opportunities on campus settings for individuals in need of additional support and treatment prior to making a transition to the community.

Will technical assistance be available for providers throughout the conversion process?

In the conversion guidance document that was released on December 3, 2014, there are several pages of detailed resources for each different process required when converting an ICF to an IRA. OPWDD has ICF liaisons at each regional offices who can assist. Providers can also email the Community.Transitions@ny.gov mailbox for assistance.

At what point do we submit a CON?

Agencies should submit their CON applications when they submit the conversion proposal.

Will all HCBS Waiver paperwork for a conversion be submitted via CHOICES or will there be transition centers or some other manner to send in documentation?

Providers should use CHOICES to send in the required waiver enrollment documents. The conversion proposal should be sent to the DDRO directly and to community.transitions@opwdd.ny.gov.

Q: Will exceptions be made for individuals that require a highly structured environment with intense needs (behavioral and/or medical)?

Individuals needing a highly structured environment should be made known to the regional office for assistance with referrals to services that can provide the services the person needs.